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**TRUCK
MANUFACTURERS
ASSOCIATION®**

1225 New York Avenue, NW – Suite 300
Washington, DC 20005-6156
Phone: 202/638-7825 • Fax: 202/737-3742

250 Bridge Street – Suite 100
Carleton Place, ON K7C 3P4
Phone: 613/253-8858 • Fax: 613/253-8859

December 10, 2001

Dr. Jeffrey Runge
Administrator
National Highway Traffic Safety Administration
400 Seventh Street, SW
Washington, DC 20590

Dear Dr. Runge:

**REFERENCE: Reporting of Information About Foreign Safety Recalls and Campaigns
Related to Potential Defects [Docket No. NHTSA 2001-10773; Notice 1], Notice of Proposed
Rulemaking**

The Truck Manufacturers Association (TMA), whose members include all of the major North American manufacturers of medium and heavy-duty trucks (greater than 8845 kilograms (19,500 pounds) gross vehicle weight rating) submits the following comments in response to the subject Notice of Proposed Rulemaking. TMA member companies include: **Ford Motor Company, Freightliner LLC, General Motors Corporation, International Truck and Engine Corporation, Isuzu Motors America, Inc., Mack Trucks, Inc., PACCAR Inc., and Volvo Trucks North America, Inc.**

TMA member companies have carefully reviewed the subject NPRM and continue to find the agency's approach to identifying "identical or substantially similar vehicles" to be problematic. We believe that the agency needs to take into account the significant differences between "light-duty vehicles" and "commercial medium and heavy-duty trucks" with a gross vehicle weight rating greater than 19,500 pounds.

The safety of our products is of utmost importance to TMA member companies. Contrary to the agency's statement in the preamble to this NPRM, TMA is not "bent on finding or inventing distinctions to evade reporting." The NHTSA has apparently misinterpreted TMA's comments to the agency concerning the "early warning" ANPRM, specifically those relative to "substantially similar." Our intent in that submittal, and in this one, is to make legitimate distinctions between the various classes of vehicles in order to avoid providing the agency with information that we believe is not particularly useful for making recall decisions.

As we stated in our response to the agency's "early warning" ANPRM, medium and heavy-duty truck manufacturers produce highly customized products designed to satisfy the cargo-carrying

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demands and operating environments of the trucking industry, the purchasers of our products. Truck buyers can and do specify nearly every major component on the vehicles we manufacture. Medium and heavy-duty truck manufacturers are assemblers and systems integrators, i.e., they “manufacture” a vehicle by assembling the components/systems specified by the end user. Therefore, in the case of medium and heavy-duty trucks, “substantially similar,” of necessity, needs to be defined around major component systems of the vehicle, not vehicle make/model.

In the preamble to the NPRM, NHTSA states that “[w]e would deem foreign and U.S. motor vehicles as “substantially similar” for reporting purposes if they both contain the component or system that gave rise to or contributed to a safety recall or other safety campaign in a foreign country without regard to the vehicle platform on which the components or systems are installed.” TMA agrees with this statement as it correctly characterizes the real-world situation for our portion of the vehicle manufacturing industry.

TMA has been attempting to point out that while three “cookie cutter” passenger car examples of manufacturer “A’s” model B may be substantially similar, three outwardly similar (i.e, visually similar) examples of manufacturer “C’s” model D truck tractor would not be substantially similar because they could have different engines, transmissions, front axle/suspension, rear axles/suspensions, frame rails, fuel tanks, air dryers, seats, horns, mirrors, batteries, wheelbases, tires, wheels, fifth wheels, and ABS, to mention a few. As a specific example, a U.S. fleet could purchase 50 model “Z” truck tractors from manufacturer “C” equipped with Meritor axles, Meritor WABCO ABS, Cummins engine, ArvinMeritor ZF transmission, and Holland fifth wheel. A second Canadian fleet could purchase 50 model “Z” truck tractors from manufacturer “C” equipped with Dana axles, Bendix ABS, Detroit Diesel engine, Fuller 13-speed transmission and Fontaine fifth wheel. A third Australian fleet could purchase 50 model “Z” truck tractors from manufacturer “C” equipped with Eaton axles, Bosch ABS, Caterpillar engine, Allison automatic transmission, and Holland fifth wheel. Let’s also assume that this particular model “Z” truck tractor met both the FMVSSs and the CMVSSs. According to NHTSA’s proposal, using make/model to define substantially similar, all of manufacturer “C’s” model “Z” truck tractors would be substantially similar vehicles. If there were a recall in Australia of the Allison automatic transmission, only the vehicles manufactured by “C” with Allison transmissions would be recalled. The other vehicles manufactured by “C” would not be recalled because they do not have Allison transmissions, therefore, any information regarding the “other vehicles” specific to a recall of Allison transmissions would not be particularly useful information to NHTSA for making recall decisions. The above example demonstrates why the agency’s one-size-fits-all approach to identifying “identical or substantially similar vehicles” is problematic.

It should also be noted that there are different engines, transmissions, axles, etc. within a given manufacturer's model line, i.e., all models of a given manufacturer's transmission are not necessarily substantially similar. It is not necessarily just a matter of a different supplier.

In addition, in some markets, medium and heavy-duty trucks may face operating conditions significantly different and sometimes harsher than in the U.S. For example, products sold in South America or Africa can face off-highway conditions even on well-traveled routes. For this reason, there are often market specific components required. Australia, for example, has a special pass/fail test for fifth wheels that are used on Australian Road Trains (three to five trailers pulled by a single tractor). The test is fairly onerous. Although a fifth wheel could be certified for use in North America and Australia, the failure of a fifth wheel in the Australian road-train application might never manifest itself in the North American application. Although this recall would need to be reported to NHTSA, along with the explanation as to why we believe that this is not a safety problem in the U.S., it further points out that the decision on the appropriateness of a recall of necessity remains a case-by-case decision.

Although we understand the appeal of vehicle level determinations of substantially similar by light vehicle manufacturers where make/model substantially tells it all, we believe that this approach has no meaning or value when applied to medium and heavy-duty trucks (see above examples). When medium and/or heavy-duty truck recalls or other safety campaigns are required, vehicles that share identical component parts are "substantially similar." While it would not be appropriate to define medium and heavy-duty trucks as "substantially similar," one could define components/systems as "substantially similar."

TMA believes that: (1) **the final rule should explicitly state that only Section 579.12(5) be applicable for vehicles greater than 19,500 pounds GVWR**, i.e., "such a vehicle and a vehicle sold or offered for sale in the United States both contain the component or system that gave rise to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the components or systems is installed and regardless of whether the part numbers are identical" and (2) **the final rule should explicitly state that vehicles greater than 19,500 pounds GVWR are exempt from the Section 579.13(e) yearly reporting requirements**, because a make/model list would be of no usefulness to the agency or the industry in identifying vehicle populations subject to a given recall and **not** because we are "bent on finding or inventing distinctions to evade reporting."

The agency raised a series of questions in the preamble which TMA would like to respond to:

- o **“... we specifically request comment on a formulation based on the concept that the foreign and U.S. vehicles would be substantially similar for reporting under 30166(1) if they shared a platform and/or body shell.”** Because of the custom nature of trucks with a GVWR greater than 19,500 pounds, this formulation would be inappropriate for this class of vehicles. Medium and heavy-duty trucks of the same make/model could have very different components (see previous examples). For example, truck/truck tractor ABS systems are available from three different manufacturers. Should an ABS ECU of manufacturer A be shown to be defective, only those trucks that were equipped with manufacturer A’s ABS would be subject to the recall, not all trucks of a given make/model.
- o **“... Whether we should require a manufacturer to report a foreign campaign involving a vehicle generally substantially similar to one offered for sale in the United States if the defective component or system is different (e.g., substantially dissimilar in design or manufacture) from the component or system used on or installed in the vehicles sold in the U.S. ...”** TMA agrees with the agency’s tentative decision that this would not require reporting.
- o **“... whether we should require a manufacturer to report a foreign campaign in which the defective component or system is substantially similar to the component or system the manufacturer used on a vehicle sold in the U.S., but the vehicle itself is on a different platform or would not otherwise be considered similar.”** TMA agrees with the agency’s tentative decision that reporting would be required in this situation.

The agency requested comments on the matters raised by Breed and the Automotive Occupants Restraint Council. TMA supports their proposition that under certain circumstances, it is appropriate for the supplier to report a recall even though the vehicle manufacturer would not have a reporting obligation.

The agency requested “comments on any issues posed by this (the 5-day requirement) approach to timing and how, in the view of the commenter, they should be addressed.” Truck manufacturers realize that the 5 day reporting requirement is a statutory requirement, however, potential difficulties we anticipate include:

- (1) the agency assumes that, in most cases, local subsidiaries or affiliates of multinational manufacturers are not authorized to decide to conduct safety recalls or other safety

campaigns without the concurrence of the corporate headquarters. This is not always true in the case of medium and heavy-duty truck manufacturers. Local entities are often empowered to make such decisions unilaterally.

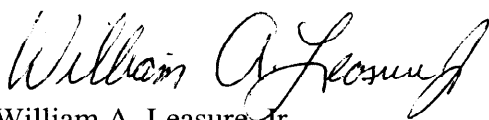
(2) the agency has added the requirement that the documents associated with the foreign recall be provided in the original language (if not English) as well as a translation. If a translation is needed, it is likely that submissions may be delayed beyond the 5-day reporting period due to processing time.

(3) foreign countries have more holidays and plant shutdowns than is typical in the U.S. Submissions may be delayed beyond the 5-day reporting period due to plant shutdowns and additional holidays in some foreign countries.

All of these factors may in certain instances make it difficult to meet the 5 day requirement, therefore, the agency needs to be flexible. We would recommend that the agency consider the 5-working day requirement to be 5-business days in any of the foreign countries involved in the specific report at issue up to a maximum of 15 U.S. business days.

In closing, TMA believes that the difference in meaningfulness of make/model designations between customized medium and heavy-duty trucks (vehicles with a GVWR greater than 19,500 pounds) and mass-produced light vehicles warrants different approaches for identifying vehicle populations for a given recall. TMA member companies understand the need to report foreign recalls. We hope that this submittal clarifies that the single approach advocated in the NPRM is inappropriate when applied to the vehicles we manufacture. We request that the agency give careful consideration to our explanation that make/model designations alone in the case of medium and heavy-duty trucks are not meaningful in making recall determinations. TMA staff is available to provide additional relevant information the agency may require.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Leasure, Jr.", written in a cursive style.

William A. Leasure, Jr.
President

cc: Taylor Vinson
Kenneth Weinstein
Jon White